IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Writ Appeal No.2517 of 2002

Mercy Amalraj ... Appellant

vs.

1. The Secretary to Government,
Housing and Urban Development
Department,
Fort St. George, Chennai-9.

2. The Special Tahsildar,
(Neighbourhood Scheme),
Land Acquisition Officer,
Nagercoil, Kanyakumari District. ... Respondents

For Appellant : Mr.R.Krishnan
For Respondents : Mr.P.Wilson,
Special Govt. Pleader

Appeal under Clause 15 of the Letters Patent against the order of the learned single Judge dated 05.04.2002 made in W.P. No.9540 of 1996 Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorari to call for the records relating to the proceedings of the respondent in G.O.Ms.No.1213, Housing and Urban Development Department dt. 17.9.91 and in G.O.Ms.No.854, Housing and Urban Development Department dt. 14.12.1992, the same relates to the petitioner's land are concerned.

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above Writ Appeal is directed against the order of the learned single Judge, dated 05.04.2002, made in W.P. No.9540 of 1996, in and by which, the learned Judge, after finding that there is no procedural lapse on the part of the Government/Land Acquisition Officer, dismissed the Writ Petition filed by the writ petitioner.

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2. Heard learned counsel for the appellant as well as learned Special Government Pleader for the respondents.

3. At the foremost, learned counsel for the appellant submitted that there was no further enquiry in terms of Section-5A of the Act. Secondly, he contended that there was no prior approval or sanction by the Government for initiating the acquisition proceedings.

4. Learned Special Government Pleader met both the contentions by placing the records.

5. With reference to the first contention, it is not in dispute that the appellant/petitioner filed her objection on the date of the enquiry. It is not her case that her objection was not at all considered, on the other hand, after consideration, the objection was over-ruled by the Government and declaration under Section-6 was passed, in such circumstances, we are unable to accept the contention raised by the learned counsel for the appellant.

6. Regarding the second contention, it is not in dispute that Notification under Section 4(1) of the Act was issued for the formation of Neighbourhood Scheme by the Tamil Nadu Housing Board, which is undoubtedly for a public purpose in terms of Section 3(f) of the Act. Further, admittedly, the said objection was not raised in the affidavit filed in support of the Writ Petition. Even otherwise, we are satisfied that there is no flaw as claimed by the learned counsel for the appellant.

7. In addition to the same, the records produced show that the notice for award enquiry was served on the appellant in November, 1994, and she also appeared for the enquiry. The records also show that after fulfilling of the formalities, award was pronounced in the open Court on 14.12.1994, whereas the petitioner filed the Writ Petition only in July, 1996. This aspect was also considered in a proper perspective and, in the absence of proper explanation for not challenging the acquisition proceedings at the right time, the learned Judge rejected the claim of the petitioner. Even before us, there is no proper explanation for not challenging the acquisition proceedings before passing of the award. As said earlier, the Writ Petition came to be filed nearly 1 ½ years after the passing of the award. It is not in dispute that Courts have consistently taken a view that, after passing of the award, the aggrieved persons are not permitted to challenge the acquisition proceedings. Even on merits, we have already expressed that both the contentions raised by the leaned counsel for the appellant are not acceptable.

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Consequently, Writ Appeal fails and the same is dismissed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

JI.

To

1. The Secretary to Government, Housing and Urban Development Department, Fort St. George, Chennai-9.

2. The Special Tahsildar, (Neighbourhood Scheme), Land Acquisition Officer, Nagercoil, Kanyakumari District.

+ 1 CC to the Government Pleader SR NO 34755

+ 1 CC To Mr. A.Sivaji, Advocate SR NO. 34824

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vs(co)
gp/24.8.

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